

6-5-2014

## State v. Griffith Clerk's Record v. 1 Dckt. 41923

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Vol. 1-2-1

Gutierrez  
LAW CLERK

IN THE  
**SUPREME COURT**  
OF THE  
**STATE OF IDAHO**

COPY

STATE OF IDAHO

Plaintiff and

Respondent

vs.

CHRISTOPHER D. GRIFFITH

Defendant and

Appellant

Appealed from the District Court of the Seventh Judicial

District of the State of Idaho, in and for Bonneville County

Hon. Joel E. Tingey, District Judge

Attorney General's Office

700 West Jefferson Boise, ID 83720

*Attorney for Appellant*

State Appellate Public Defender

3050 N. Lake Harbor Lane, Ste. 100 Boise, ID 83703

*Attorney for Respondent*

Filed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

JUN - 5 2014

Supreme Court Court of Appeals

Entered on ATS by \_\_\_\_\_

Clerk

By \_\_\_\_\_

Deputy

41923

**IN THE SUPREME COURT OF THE STATE OF IDAHO**  
**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE**  
**STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE**

STATE OF IDAHO,	)	
	)	
Plaintiff/Respondent,	)	Case No. CR-2001-26605
	)	
vs.	)	Docket No. 41923
	)	
CHRISTOPHER D GRIFFITH,	)	<b>CLERK'S CERTIFICATE</b>
	)	
Defendant/Appellant.	)	
_____	)	

\* \* \* \* \*

**CLERK'S RECORD ON APPEAL**

\* \* \* \* \*

Appeal from the District Court of the  
Seventh Judicial District of the State of Idaho,  
in and for the County of Bonneville

HONORABLE JOEL E. TINGEY, District Judge.

\* \* \* \* \*

*Attorney for Appellant*

*Attorney for Respondent*

Sara Thomas  
State Appellate Public Defender  
3050 N. Lake Harbor Lane St. 100  
Boise, ID 83703

Deputy Attorney General  
PO Box 83720  
Boise, ID 83720-0010

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State of Idaho vs. Christopher D Griffith

Date	Code	User		Judge
11/8/2001		HORNE	New Case Filed	Colin W. Luke
	CRCO	HORNE	Criminal Complaint	Mildred R. McClure
	BDST	HORNE	Bond Set: HOLD WITHOUT BOND	Mildred R. McClure
	ASDJ	HORNE	Assigned District Judge: JON SHINDURLING	Mildred R. McClure
	HRSC	HORNE	Hearing Scheduled (Arraignment 11/08/2001 01:00 PM)	Mildred R. McClure
	HRSC	HORNE	Hearing Scheduled (Preliminary Hearing 11/21/2001 01:30 PM)	Colin W. Luke
	ARRN	HORNE	Hearing result for Arraignment held on 11/08/2001 01:00 PM: Arraignment / First Appearance	Mildred R. McClure
	AFPD	HORNE	Application For Public Defender Public defender Bonneville County P.D. Office	Mildred R. McClure
	ORPD	HORNE	Order Appointing Public Defender	Mildred R. McClure
	NOTC	WHEATLEY	Notice of Appeal	Joel E. Tingey
	MOTN	WHEATLEY	Motion and Affidavit in Support for Appointment of Counsel	Joel E. Tingey
11/14/2001	NOAP	BAKER	Notice Of Appearance John L. Stosich and Neal Randall	Colin W. Luke
	RQDS	BAKER	Request For Discovery	Colin W. Luke
	MOTN	BAKER	Motion to Expedite Hearing	Colin W. Luke
	MOTN	BAKER	Motion for Bond	Colin W. Luke
	MOTN	BAKER	Motion for Appointment of Defense Investigator	Colin W. Luke
	MOTN	BAKER	Motion for Contact Visit	Colin W. Luke
11/15/2001	MISC	BAKER	State's Reponse & Opposition to Def's Motion for Contact Visit	Colin W. Luke
	MISC	BAKER	State's Response to Def's Motion for Appointment of Defense Investigator	Colin W. Luke
	MISC	BAKER	State's Objection to Motion to Expedite Hearing and Response in Opposition to Def's Motion for Bond	Colin W. Luke
11/21/2001	RQDS	BAKER	2nd Request For Discovery	Colin W. Luke
	NOTH	BAKER	Notice Of Hearing (11-28-01 @ 1:30 PM Motion for Bond))	Colin W. Luke
	CONT	HORNE	Hearing result for Preliminary Hearing held on 11/21/2001 01:30 PM: Continued	Colin W. Luke
	HRSC	HORNE	Hearing Scheduled (Hearing 11/28/2001 01:30 PM)	Colin W. Luke
	HRSC	HORNE	Hearing Scheduled (Preliminary Hearing 12/19/2001 01:30 PM)	Colin W. Luke
		HORNE	Notice Of Hearing	Colin W. Luke
1/26/2001	MOTN	BAKER	Motion for No Contact	Colin W. Luke

State of Idaho vs. Christopher D Griffith

Date	Code	User	Judge
11/26/2001	NOTH	BAKER	Notice Of Hearing (11-28-01 @ 1:30 PM Motion for No Contact)
11/27/2001	RSRQ	BAKER	State's Response To Request For Discovery
11/28/2001	DENY	MCGARY	Hearing result for Hearing held on 11/28/2001 01:30 PM: Motion Denied
12/4/2001	SPRD	BAKER	State's Supplemental Response to Discovery
12/13/2001	SPRD	BAKER	State's 2nd Supplemental Response to Discovery
12/18/2001	MOTN	MCGARY	Motion to Compel Discovery
	NOTH	MCGARY	Notice Of Hearing (12-19-01 1:30 pm)
12/19/2001	SPRD	BAKER	State's 3rd Supplemental Response to Discovery
	SPRD	BAKER	State's 4th Supplemental Response to Discovery
	HELD	MCGARY	Hearing result for Preliminary Hearing held on 12/19/2001 01:30 PM: Motion Held
	BOUN	HORNE	Bound Over (after Prelim)
	JUDGE	HORNE	Judge Change
12/20/2001	SPRD	BAKER	State's 5th Supplemental Response to Discovery
12/28/2001	HRSC	HORNE	Hearing Scheduled (Arraignment 01/02/2002 08:45 AM)
1/2/2002	HRHD	KRAGER	Hearing result for Arraignment held on 01/02/2002 08:45 AM: Hearing Held
	APNG	KRAGER	Appear & Plead Not Guilty
	AURA	KRAGER	Acknowledgement Of Understanding Rights
	HRSC	KRAGER	Hearing Scheduled (Motion 01/04/2002 09:00 AM)
	HRSC	KRAGER	Hearing Scheduled (Pretrial Conference 04/11/2002 09:00 AM)
	HRSC	KRAGER	Hearing Scheduled (Jury Trial 04/23/2002 10:00 AM)
	INFO	KRAGER	Information
1/3/2002	NOTH	KRAGER	Notice Of Hearing motion to establish bond amount
	ORPT	KRAGER	Order Setting Pretrial Conference/trial
	ORDR	KRAGER	Order setting bail
	MINE	KRAGER	Minute Entry
1/4/2002	GRNT	KRAGER	Hearing result for Motion held on 01/04/2002 09:00 AM: Motion Granted
	BDST	KRAGER	Bond Set: \$25,000 bail (cash or surety)- if posted, but register w/pre-trial services. See Order for other special conditions of release.
	MINE	KRAGER	Minute Entry on bond reduction

State of Idaho vs. Christopher D Griffith

Date	Code	User		Judge
1/7/2002	BNDC	HORNE	Bond Posted - Cash (Receipt 13875 Dated 01/07/2002 for 25000.00)	Jon J. Shindurling
1/8/2002	TRAN	KRAGER	Transcript Filed	Jon J. Shindurling
	PTRA	MESSICK	Pretrial Release Agreement	Jon J. Shindurling
1/9/2002	SPRD	BAKER	State's 6th Supplemental Response to Discovery	Jon J. Shindurling
2/11/2002	TRAN	KRAGER	Transcript Filed	Jon J. Shindurling
2/21/2002	SPRD	TUBBS	State's 7th Supplemental Response to Discovery	Jon J. Shindurling
	RQDS	TUBBS	Request For Discovery	Jon J. Shindurling
3/5/2002	HRSC	KRAGER	Hearing Scheduled (Motion 03/11/2002 02:00 PM)	Jon J. Shindurling
	HRSC	TUBBS	Hearing Scheduled (Motion 03/11/2002 03:00 PM)/Voir Dire Examination and In Camera Review of Video Tape Interview	Jon J. Shindurling
	BRIF	TUBBS	State's Brief in Support of Motion in Limine	Jon J. Shindurling
	MOTN	TUBBS	State's Motion in Limine	Jon J. Shindurling
	MOTN	TUBBS	State's Motion for Voir Dire Examination and In Camera Review of Video Tape Interview	Jon J. Shindurling
	NOTH	TUBBS	Notice Of Hearing (Motion in Limine 3/11/02 2:00pm)	Jon J. Shindurling
	NOTH	TUBBS	Notice Of Hearing (Motion for Voir Dire Examination and In Camera Review of Video Tape Interview	Jon J. Shindurling
3/7/2002	SPRD	TUBBS	State's Eighth Supplemental Response to Discovery	Jon J. Shindurling
	CONT	KRAGER	Hearing result for Motion held on 03/11/2002 03:00 PM: Continued	Jon J. Shindurling
	HRSC	KRAGER	Hearing Scheduled (Motion 03/15/2002 09:00 AM)	Jon J. Shindurling
3/11/2002	CONT	KRAGER	Hearing result for Motion held on 03/11/2002 02:00 PM: Continued	Jon J. Shindurling
	STIP	KRAGER	Stipulation to vacate hearing set for 3/11/02	Jon J. Shindurling
3/15/2002	SPRD	TUBBS	State's Ninth Supplemental Response to Discovery	Jon J. Shindurling
	CONT	KRAGER	Hearing result for Jury Trial held on 04/23/2002 10:00 AM: Continued	Jon J. Shindurling
	CONT	KRAGER	Hearing result for Pretrial Conference held on 04/11/2002 09:00 AM: Continued	Jon J. Shindurling
	CONT	KRAGER	Hearing result for Motion held on 03/15/2002 09:00 AM: Continued	Jon J. Shindurling
	HRSC	KRAGER	Hearing Scheduled (Preliminary Hearing 05/16/2002 09:00 AM)	Jon J. Shindurling
	HRSC	KRAGER	Hearing Scheduled (Jury Trial 06/04/2002 10:00 AM)	Jon J. Shindurling



State of Idaho vs. Christopher D Griffith

Date	Code	User	Judge
3/19/2002	ORPT	KRAGER	Order Setting Pretrial Conference/trial (continued from 4/23/02)
	NOTH	BAKER	Notice Of Hearing (4-23-02 @ 10:00 AM) Motion in Limine)
	HRSC	BAKER	Hearing Scheduled (Criminal Motion 04/23/2002 10:00 AM) Motion in Limine; for Voir Dire Exam; In Camera Review of Video Tape
4/5/2002	NOTC	BAKER	Notice of Referral
4/8/2002	JUDGE	MOSS	Judge Change
4/12/2002	SPRD	BAKER	State's 10th Supplemental Response to Discovery
4/17/2002	HRSC	SOUTHWIC	Hearing Scheduled (Pretrial Conference 05/13/2002 09:30 AM)
		SOUTHWIC	Notice Of Hearing
4/22/2002	MISC	SOUTHWIC	Request To Obtain Approval to Broadcast &/or photograph a court Proceeding
	ORDR	SOUTHWIC	Order (re: approval to broadcast)
	SPRD	TUBBS	State's Eleventh Supplemental Response to Discovery
4/23/2002	HRVC	SOUTHWIC	Hearing result for Preliminary Hearing held on 05/16/2002 09:00 AM: Hearing Vacated
	HRHD	SOUTHWIC	Hearing result for Criminal Motion held on 04/23/2002 10:00 AM: Hearing Held
	MINE	SOUTHWIC	Minute Entry
4/24/2002	TRAN	SOUTHWIC	Transcript Filed - 4/23/02 voir dire in chambers)
	AFFD	TUBBS	Affidavit of Janet S. Liester
	MISC	SOUTHWIC	Request for Jury - 120 (6/03/02)
4/25/2002	AFFD	SOUTHWIC	Affidavits in Support of St's motion in limine (Sealed)
	AFFD	SOUTHWIC	Affidavit of Lee Ann Shaw (Sealed)
	AFFD	SOUTHWIC	Affidavit of Dannielle Hawkins (Sealed)
	AFFD	SOUTHWIC	Affidavit of Janet S. Liester (Sealed)
5/1/2002	MISC	SOUTHWIC	Memorandum Objecting to Mo in Limine (Stosich)
5/2/2002		BAKER	State's Response to Def's Memorandum Objecting to Motion in Limine
	SPRD	BAKER	State's 12th Supplemental Response to Discovery
5/7/2002	HRSC	SOUTHWIC	Hearing Scheduled (Criminal Motion 05/13/2002 02:00 PM)
	ORDR	SOUTHWIC	Order Granting State's Mo In Limine In Part
5/8/2002	MOTN	SOUTHWIC	Motion to Continue (JT)
	NOTC	SOUTHWIC	Amended Notice of Hearing (5/13/02)

State of Idaho vs. Christopher D Griffith

Date	Code	User		Judge
5/9/2002		BAKER	State's Opposition to Def's Motion to Continue	Richard T. St. Clair
5/13/2002	HRHD	SOUTHWIC	Hearing result for Criminal Motion held on 05/13/2002 02:00 PM: Hearing Held	Richard T. St. Clair
	HRHD	SOUTHWIC	Hearing result for Pretrial Conference held on 05/13/2002 09:30 AM: Hearing Held	Richard T. St. Clair
	GRNT	SOUTHWIC	Motion Granted	Richard T. St. Clair
	CONT	SOUTHWIC	Hearing result for Jury Trial held on 06/03/2002 01:00 PM: Continued	Richard T. St. Clair
	MINE	SOUTHWIC	Minute Entry	Richard T. St. Clair
5/15/2002	SPRD	BAKER	State's 13th Supplemental Response to Discovery	Richard T. St. Clair
5/16/2002	HRSC	SOUTHWIC	Hearing Scheduled (Jury Trial 08/05/2002 01:30 PM)	Richard T. St. Clair
	HRSC	SOUTHWIC	Hearing Scheduled (Pretrial Conference 07/29/2002 09:30 AM)	Richard T. St. Clair
		SOUTHWIC	Notice Of Hearing	Richard T. St. Clair
	MISC	SOUTHWIC	Request for jury (120) and high profile case (for	Richard T. St. Clair
		SOUTHWIC	Notice Of Hearing	Richard T. St. Clair
5/22/2002	MOTN	SOUTHWIC	Ex-Parte Motion For Defense Expert Funds (Sealed)	Richard T. St. Clair
	ORDR	SOUTHWIC	Ex-Parte Order (Sealed)	Richard T. St. Clair
5/23/2002	MOTN	BAKER	Motion for Extension of Time for Disclosure of Experts	Richard T. St. Clair
	AFFD	BAKER	Affidavit in Support of Motion for Extension of Time for Disclosure of Experts	Richard T. St. Clair
5/24/2002	SPRD	BAKER	State's 14th Supplemental Response to Discovery	Richard T. St. Clair
3/6/2002	NOTH	BAKER	Notice Of Hearing (7-17-02 @ 11:00 am-Motion for Extension of Time for Disclosure of Experts & Motion to Continue Trial	Richard T. St. Clair
3/7/2002	HRSC	BAKER	Hearing Scheduled (Criminal Motion 06/17/2002 11:00 AM)	Richard T. St. Clair
3/10/2002	MOTN	MCCOWIN	Motion to cont pretrial & jury trial	Richard T. St. Clair
	AFFD	MCCOWIN	Affidavit in support of motion to cont pretrial & jury trial	Richard T. St. Clair
3/11/2002	AFFD	CUTTS	Affidavit of John J. Plunkett, M.D.	Richard T. St. Clair
3/14/2002	MISC	SOUTHWIC	State's opposition to Def's Mo to Continue	Richard T. St. Clair
3/17/2002	MISC	SOUTHWIC	Memorandum in Support of Mo to Continue	Richard T. St. Clair
	HRHD	SOUTHWIC	Hearing result for Criminal Motion held on 06/17/2002 11:00 AM: Hearing Held	Richard T. St. Clair
	GRNT	SOUTHWIC	Motion for extension of expert witness deadline granted	Richard T. St. Clair
	DENY	SOUTHWIC	Motion to continue JT denied	Richard T. St. Clair

State of Idaho vs. Christopher D Griffith

Date	Code	User		Judge
3/17/2002	MINE	SOUTHWIC	Minute Entry	Richard T. St. Clair
3/18/2002	WARB	WARD	Warrant Issued - Bench Fail to Comply with Terms and Conditions of Pre-Trial Services Release Agreement	Richard T. St. Clair
3/19/2002	SPRD	WARD	State's Supplemental Response to Discovery/Fifteenth	Richard T. St. Clair
	ORDR	SOUTHWIC	Order Denying Motion To Continue	Richard T. St. Clair
	ORDR	SOUTHWIC	Order Re: Def's Mo For Extension of Time For Disclosure of Experts	Richard T. St. Clair
3/20/2002	INFO	WARD	Information	Richard T. St. Clair
	MOTN	SOUTHWIC	Exparte Mo for Defense Expert Funds	Richard T. St. Clair
	ORDR	SOUTHWIC	Ex Parte Order	Richard T. St. Clair
	MOTN	SOUTHWIC	Motion to Quash Bench Warrant	Richard T. St. Clair
	AFFD	SOUTHWIC	Affidavit of John L. Stosich	Richard T. St. Clair
	MOTN	SOUTHWIC	Motion to Shorten Time and Notice of Hearing (6/21/02)	Richard T. St. Clair
	HRSC	SOUTHWIC	Hearing Scheduled (Criminal Motion 06/21/2002 11:00 AM)	Richard T. St. Clair
3/21/2002	AFFD	SOUTHWIC	Affidavit of Jerry Wright	Richard T. St. Clair
	SPRD	SUPPORT	State's Seventeenth Supplemental Response to Discovery	Richard T. St. Clair
	HRHD	SOUTHWIC	Hearing result for Criminal Motion held on 06/21/2002 11:00 AM: Hearing Held	Richard T. St. Clair
	GRNT	SOUTHWIC	Motion Granted	Richard T. St. Clair
	MINE	SOUTHWIC	Minute Entry	Richard T. St. Clair
	ORLS	SOUTHWIC	Order For O.R. Release under supervision of PTS	Richard T. St. Clair
	WART	HORNE	Warrant Returned Fail to Comply with Terms and Conditions of Pre-Trial Services Release Agreement	Richard T. St. Clair
	STATUS	HORNE	Case Status Changed: Activate (previously inactive)	Richard T. St. Clair
3/24/2002	PTRA	BERRETT	Pretrial Release Agreement	Richard T. St. Clair
7/9/2002	MISC	SOUTHWIC	Request For Jury (8/05/02 JT) - 100	Richard T. St. Clair
7/18/2002	SPRD	WARD	State's Supplemental Response to Discovery/ Eighteenth	Richard T. St. Clair
7/22/2002	HRHD	SOUTHWIC	Hearing result for Pretrial Conference held on 07/22/2002 09:30 AM: Hearing Held	Richard T. St. Clair
	MISC	SOUTHWIC	go to trial as scheduled on 8/05/02 Jury request increased to 150	Richard T. St. Clair
	MINE	SOUTHWIC	Minute Entry	Richard T. St. Clair
	HRSC	SOUTHWIC	Hearing Scheduled (Criminal Motion 07/31/2002 09:30 AM)	Richard T. St. Clair

State of Idaho vs. Christopher D Griffith

Date	Code	User		Judge
7/22/2002		SOUTHWIC	Notice Of Hearing	Richard T. St. Clair
		SOUTHWIC	Notice Of Hearing	Richard T. St. Clair
	MISC	SOUTHWIC	State's proposed jury instructions	Richard T. St. Clair
	MISC	SOUTHWIC	State's Witness and Exhibit List	Richard T. St. Clair
	MISC	SOUTHWIC	State's Jury Instructions	Richard T. St. Clair
	MISC	SOUTHWIC	Witness and Exhibit List (Def)	Richard T. St. Clair
7/24/2002	WARB	SOUTHWIC	Warrant Issued - Bench Failure to comply with PTS conditions	Richard T. St. Clair
	SWEL	WARD	Amended State's Witness and Exhibit List	Richard T. St. Clair
	SPRD	WARD	State's Supplemental Response to Discovery/Nineteenth	Richard T. St. Clair
	WART	HORNE	Warrant Returned Failure to comply with PTS conditions	Richard T. St. Clair
7/25/2002	ORDR	SOUTHWIC	Order Conditioning Release on Bond	Richard T. St. Clair
7/26/2002	BNDC	BERRETT	Bond Posted - Cash (Receipt 42519 Dated 7/26/2002 for 75000.00)	Richard T. St. Clair
	MOTN	WARD	Motion to Change Venue	Richard T. St. Clair
	NOTH	WARD	Notice Of Hearing	Richard T. St. Clair
7/29/2002	MISC	SOUTHWIC	Def's Proposed jury instructions	Richard T. St. Clair
	MISC	SOUTHWIC	Jury Instructions (Def's)	Richard T. St. Clair
7/30/2002	SJIN	WARD	State's Jury Instructions/Supplemental	Richard T. St. Clair
	SPJI	WARD	State's Proposed Jury Instructions/Supplemental	Richard T. St. Clair
	MOTN	WARD	Motion to Continue	Richard T. St. Clair
	AFFD	WARD	Affidavit in Support of Motion to Continue Jury Trial	Richard T. St. Clair
		LEMKE	State's Opposition to Defendant's Motion to Change Venue	Richard T. St. Clair
7/31/2002	MISC	SOUTHWIC	Supplemental Witness and Exhibit List	Richard T. St. Clair
	AFFD	SOUTHWIC	Affidavit of John L. Stosich	Richard T. St. Clair
	HRHD	SOUTHWIC	Hearing result for Criminal Motion held on 07/31/2002 09:30 AM: Hearing Held	Richard T. St. Clair
	DENY	SOUTHWIC	Def's motion for change of venue denied without prejudice	Richard T. St. Clair
	MINE	SOUTHWIC	Minute Entry	Richard T. St. Clair
	MISC	SOUTHWIC	St's opposition to Def's mo to continue JT	Richard T. St. Clair
	MOTN	SOUTHWIC	Motion in Limine	Richard T. St. Clair
	HRHD	SOUTHWIC	Hearing Held	Richard T. St. Clair
3/1/2002	GRNT	SOUTHWIC	Motion to Continue JT granted	Richard T. St. Clair
	MINE	SOUTHWIC	Minute Entry	Richard T. St. Clair
	AFFD	SOUTHWIC	Affidavit of Lance Eric Greenwade in Support of Mo to Continue JT	Richard T. St. Clair

State of Idaho vs. Christopher D Griffith

Date	Code	User	Judge
3/5/2002	CONT	SOUTHWIC	Hearing result for Jury Trial held on 08/05/2002 01:30 PM: Continued
3/23/2002		SANDERS	Miscellaneous Payment: Pre-trial Supervision Paid by: Griffith, Christopher D Receipt number: 0046721 Dated: 8/23/2002 Amount: \$40.00 (Cash)
3/27/2002	HRSC	SOUTHWIC	Hearing Scheduled (Jury Trial 11/07/2002 09:00 AM)
		SOUTHWIC	Notice Of Hearing
10/1/2002	SPRD	GARNER	State's Supplemental Response to Discovery/Twenieth
10/10/2002	MISC	SOUTHWIC	Supplemental discovery request (Stosich)
	MISC	SOUTHWIC	Supplemental witness and exhibit list (Stosich)
10/17/2002	RSRQ	SHULTS	State's Response To Request For Discovery/ supplement discovery request
10/21/2002	HRSC	SOUTHWIC	Hearing Scheduled (Criminal Motion 10/28/2002 03:00 PM)
10/22/2002	MOTN	SOUTHWIC	State's motion in limine
	MISC	SOUTHWIC	State's objection to def's mo in limine re: photographic materials
	NOTC	SOUTHWIC	Notice of Hearing
10/25/2002	SUBR	MCCOWIN	Subpoena Returned
	STIP	SOUTHWIC	Stipulation to seal motion in limine
	ORDR	SOUTHWIC	Order to seal motion in limine
10/28/2002	HRHD	SOUTHWIC	Hearing result for Criminal Motion held on 10/28/2002 03:00 PM: Hearing Held
	MINE	SOUTHWIC	Minute Entry
11/5/2002	MISC	SOUTHWIC	Request to Photograph Hearing
	ORDR	SOUTHWIC	Order Granting Req to Photograph Hrg
	MISC	SOUTHWIC	Def's Third Supp Witness & Exhibit List
	MISC	SOUTHWIC	Def's Fifth supp Witness and Exhibit List
	MISC	SOUTHWIC	Def's Supp Response to Req for Discovery
	MISC	SOUTHWIC	Def's Fourth Supp Witness and Exhibit List
	MISC	SOUTHWIC	Request To Obtain Approval to Broadcast &/or Photograph a court proceeding - KIFI 8
	ORDR	SOUTHWIC	Order (KIFI 8)
	MISC	HORNE	SECOND AMENDED STATE'S WITNESS AND EXHIBIT LIST
1/6/2002	MISC	SOUTHWIC	Def's Sixth Supp Witness and Exhibit List
1/7/2002	ORDR	SOUTHWIC	Order
	TLST	SOUTHWIC	Hearing result for Jury Trial held on 11/07/2002 09:00 AM: Trial Started

State of Idaho vs. Christopher D Griffith

Date	Code	User	Judge
11/13/2002	MISC	SOUTHWIC	St's Supplemental Brief in Support of State's Motion In Limine
	MISC	SOUTHWIC	Def's Supplemental Response to Request for Discovery
11/18/2002	TRAN	SOUTHWIC	Transcript Filed - Partial transcript - testimony of Jeffrey Stieglitz and Breanna Mills
11/20/2002	TRAN	SOUTHWIC	Transcript Filed - Saami Shaibani
11/21/2002	MISC	SOUTHWIC	VERDICT
	GUILTY	SOUTHWIC	Found Guilty
	OPSI	SOUTHWIC	Order For Pre Sentence Investigation
	MINE	SOUTHWIC	Minute Entry
	HRSC	SOUTHWIC	Hearing Scheduled (Sentencing 02/03/2003 10:00 AM)
		SOUTHWIC	Notice Of Hearing
	ORDR	HORNE	Order EXONERATING BOND/DEFENDANT FOUND GUILTY-- REMANDED TO CUSTODY
	BNDE	HORNE	Cash Bond Exonerated (Amount 25,000.00)
	BNDE	HORNE	Cash Bond Exonerated (Amount 75,000.00)
	ORDR	SOUTHWIC	Order Commitment of Imprisonment (pending sentencing)
12/3/2002	MOTN	HORNE	Motion for Judgment of Acquittal
1/2/2003	SPRD	HTHOMPSON	State's Twenty-First Supplemental Response to Discovery
1/29/2003	ORDR	HTHOMPSON	Order: Def. may meet w/ Legal Counsel & Parents in secure courtroom at Bonneville County courthouse
	ORDR	HTHOMPSON	Order Permitting Broadcast and/or Photograph of Court Trail
1/30/2003	CONT	HUNTSMAN	Hearing result for Sentencing held on 02/03/2003 10:00 AM: Continued
	HRSC	HUNTSMAN	Hearing Scheduled (Sentencing 03/17/2003 10:00 AM)
		HUNTSMAN	Notice Of Hearing
	MISC	HTHOMPSON	Request to Obtain Approval to Broadcast and/or Photograph a Court Proceeding
1/14/2003	MISC	SOUTHWIC	State's Sentencing Brief
1/17/2003	HRHD	SOUTHWIC	Hearing result for Sentencing held on 03/17/2003 10:00 AM: Hearing Held
	JDMT	SOUTHWIC	Judgment of Conviction
	MINE	SOUTHWIC	Minute Entry
	MISC	SOUTHWIC	Def ordered to pay \$5,000.00 civil jdmt to Justin Rees and Melissa Rees
	GUILTY	SOUTHWIC	Found Guilty (118-4001-I Murder I)

State of Idaho vs. Christopher D Griffith

Date	Code	User	Judge
3/18/2003	SNIC	SOUTHWIC	Sentenced To Incarceration (I18-4001-I Murder I) Confinement terms:Credited time: 178 days.Penitentiary determinate: 22 years.Penitentiary indeterminate: 99 years.
3/27/2003	MOTN	HORNE	Motion for New Trial
	NOTC	HORNE	Notice of Appeal
	ORDR	SOUTHWIC	Order Appointing State Appellate Public Defender and Withdrawing Dounty Public Defender For appeal
4/17/2003	STIP	SOUTHWIC	Stipulation for leave to withdraw as counsel of record
	NOAP	SOUTHWIC	Defendant: Griffith, Christopher D Notice Of Appearance Neal S Randall
5/7/2003	MISC	SOUTHWIC	certified copies of notice of appeal and order appointing sapf sent
5/21/2003		HAGERTY	Notice of Appeal (T) (S.C.) 5/13/03.
3/18/2003	NOAP	HTHOMPSON	Defendant: Griffith, Christopher D Notice Of Appearance Rocky L. Wixom
7/2/2003	MOTN	HORNE	Motion to reduce Sentence
7/18/2003		HAGERTY	Transmittal of Document (SC)
		HAGERTY	Court Reporter's Motion for Extension of Time to Lodge Transcript (Granted) (SC)
7/30/2003		HAGERTY	Transmittal of Document (SC)
		HAGERTY	Court Reporter's Motion for Extension of Time to Lodge Transcript (Granted) (SC)
9/16/2003	TRAN	SOUTHWIC	Transcript Filed - Oviatt portion
9/17/2003		HAGERTY	Filed "Notice of Transcript Lodged" (Others Due) (SC)
9/26/2003		HAGERTY	Transmittal of Document: Court Reporter's Motion for Extension of Time to Lodge Transcript (SC)
10/14/2003		HAGERTY	Filed "Notice of Transcript Lodged" (SC)
10/28/2003	HRSC	SOUTHWIC	Hearing Scheduled (Criminal Motion 11/10/2003 11:00 AM)
10/29/2003	MISC	HTHOMPSON	Request for Bail on Appeal
	NOTH	HTHOMPSON	Notice Of Hearing on Request for Bail on Appeal
11/6/2003	MISC	SOUTHWIC	State's opposition to motion for bond
11/10/2003	HRHD	SOUTHWIC	Hearing result for Criminal Motion held on 11/10/2003 11:00 AM: Hearing Held
	DENY	SOUTHWIC	Motion Denied
	MINE	SOUTHWIC	Minute Entry
11/13/2003	APDC	HTHOMPSON	Appeal Filed In District Court
	APDC	HTHOMPSON	Appeal Filed In District Court

State of Idaho vs. Christopher D Griffith

Date	Code	User	Judge
11/14/2003	ORDR	SOUTHWIC	Order Denying Def's Request for Bail on appeal
11/24/2003	MISC	SOUTHWIC	clerk's record/transcripts sent to Supreme Court - no objections filed by counsel
12/24/2003	TRAN	SOUTHWIC	Transcript Filed - partial trial transcript - closing arguments
3/21/2004		HAGERTY	Transmittal of Document: Order Granting Motion to Suspend the Briefing Schedule (SC)
3/22/2004		HAGERTY	Acknowledgment of Receipt of Opinion (SC)
		HAGERTY	2004 Opinion No. 42 (SC)
3/23/2004	HRSC	SOUTHWIC	Hearing Scheduled (Criminal Motion 07/06/2004 10:15 AM)
	NOTH	KER	Notice Of Hearing
	MOTN	KER	State's Motion to Dismiss Defendant's Rule 35 Motion and Motion for New Trial
7/6/2004	ORDR	SOUTHWIC	Order to continue
	CONT	SOUTHWIC	Hearing result for Criminal Motion held on 07/06/2004 10:15 AM: Continued
	HRSC	SOUTHWIC	Hearing Scheduled (Criminal Motion 07/19/2004 10:45 AM)
	HRSC	SOUTHWIC	Hearing Scheduled (Criminal Motion 08/30/2004 11:00 AM)
7/19/2004	HRHD	SOUTHWIC	Hearing result for Criminal Motion held on 07/19/2004 10:45 AM: Hearing Held
	MINE	SOUTHWIC	Minute Entry
7/20/2004	NOAP	WHEATLEY	Defendant: Griffith, Christopher D Notice Of Appearance Stevan H. Thompson
	SUBC	WHEATLEY	Substitution Of Counsel Stevan H. Thompson
7/27/2004	ORDR	SOUTHWIC	Order (denying Rule 35 motion)
3/24/2004	CONT	SOUTHWIC	Hearing result for Criminal Motion held on 08/30/2004 11:00 AM: Continued
	HRSC	SOUTHWIC	Hearing Scheduled (Criminal Motion 09/20/2004 02:00 PM)
3/30/2004	ORDR	SOUTHWIC	Order to reschedule hearing on def's motion for new trial
3/20/2004	CONT	SOUTHWIC	Hearing result for Criminal Motion held on 09/20/2004 02:00 PM: Continued
3/21/2004	HRSC	SOUTHWIC	Hearing Scheduled (Status Conference 10/12/2004 10:30 AM)
		SOUTHWIC	Notice Of Hearing
10/12/2004	HRHD	SOUTHWIC	Hearing result for Status Conference held on 10/12/2004 10:30 AM: Hearing Held
	CONT	SOUTHWIC	Continued
	MINE	SOUTHWIC	Minute Entry



State of Idaho vs. Christopher D Griffith

Date	Code	User	Judge
10/12/2004	HRSC	SOUTHWIC	Hearing Scheduled (Criminal Motion 11/15/2004 01:30 PM)
		SOUTHWIC	Notice Of Hearing
11/2/2004	TRAN	HORNE	Transcript Filed - Testimony of Jeffrey Stieglitz, MD and Testimony of Breanna Mills
	TRAN	HORNE	Transcript Filed Testimony of Saami j. Shaibani, D. Phil
	TRAN	HORNE	Transcript Filed - Bond Hearing 1/4/02 W/Judge Jon Shindurling
	TRAN	HORNE	Transcript Filed - Preliminary Hearing 12/19/01
11/15/2004	HRHD	SOUTHWIC	Hearing result for Criminal Motion held on 11/15/2004 01:30 PM: Hearing Held
	CONT	SOUTHWIC	Continued
	MINE	SOUTHWIC	Minute Entry
11/16/2004	HRSC	SOUTHWIC	Hearing Scheduled (Criminal Motion 01/10/2005 01:30 PM)
		SOUTHWIC	Notice Of Hearing
11/26/2004		HAGERTY	Transmittal of Document: Order Granting Motion to Augment and to Suspend the Briefing Schedule (SC)
12/2/2004		HAGERTY	Transmittal of Document: Amended Order Granting Motion to Augment and to Suspend the Briefing Schedule (SC)
12/27/2004	MOTN	HORNE	Amended Motion for New Trial
	BRIF	HORNE	Brief in Support of Motion for a New Trial
	MISC	HORNE	Supplemental Exhibit in Support of Motion for a New Trial
	MISC	HORNE	Exhibit "F" Transcript of Closing Argument
1/6/2005	AFFD	HORNE	Affidavit of Christopher Griffith in support of Motion for a New Trial
1/10/2005	HRHD	SOUTHWIC	Hearing result for Criminal Motion held on 01/10/2005 01:30 PM: Hearing Held
	MINE	SOUTHWIC	Minute Entry
1/13/2005	BRIF	WHEATLEY	Rebuttal Brief In Support of Motion For New Trial
2/11/2005	ORDR	SOUTHWIC	Memorandum Decision and Order
	DENY	SOUTHWIC	Motion Denied
3/14/2005	NOTC	HAGERTY	Notice of Appeal
	APDC	HAGERTY	Appeal Filed In District Court
	APSC	HAGERTY	Appealed To The Supreme Court
3/22/2005	STIP	HORNE	Stipulation to Appoint State Appellate Public Defender on Appeal
		HAGERTY	Transmittal of Document: Order (SC)

State of Idaho vs. Christopher D Griffith

Date	Code	User		Judge
3/23/2005	ORDR	SOUTHWIC	Notice and Order Appointing SAPD	Richard T. St. Clair
3/25/2005	LODG	HAGERTY	Lodged - Transcript for Appeal	Richard T. St. Clair
	TRAN	SOUTHWIC	Transcript Filed -	Richard T. St. Clair
4/7/2005	MISC	SOUTHWIC	Clerk's Certificate of appeal - Supplemental	Richard T. St. Clair
4/8/2005	MISC	SOUTHWIC	Clerk's Record and Transcript on Appeal sent to Supreme Court and counsel simultaneously - no review period for supplemental record	Richard T. St. Clair
4/11/2005		HAGERTY	*Amended* Notice of Appeal Filed (SC)	Richard T. St. Clair
		HAGERTY	*Amended* Clerk's Certificate Filed (SC)	Richard T. St. Clair
4/12/2005		HAGERTY	Notice of Filing: Supplemental Reporter's Transcript and Supplemental Clerk's Record (SC)	Richard T. St. Clair
5/25/2005		HAGERTY	Transmittal of Document: Order Granting Motion to Augment and Suspending Briefing Schedule (SC)	Richard T. St. Clair
3/25/2005		HAGERTY	Transmittal of Document: Order Withdrawing Order Granting Motion to Augment and Suspending Briefing Schedule (SC)	Richard T. St. Clair
3/7/2007		HAGERTY	Acknowledgment of Receipt of Opinion (SC)	Richard T. St. Clair
		HAGERTY	2007 Opinion No. 9 (SC)	Richard T. St. Clair
7/12/2007		HAGERTY	Acknowledgment of Receipt (SC)	Richard T. St. Clair
	REMT	HAGERTY	Remittitur (SC)	Richard T. St. Clair
	STATUS	ISC2	Case Status Changed: closed pending clerk action	Richard T. St. Clair
1/3/2014	MOTN	KER	Motion to Correct an Illegal Sentence Under Idaho Criminal Rule 35	Richard T. St. Clair
1/13/2014	JUDGE	SOUTHWIC	Judge Change	Joel E. Tingey
	ORDR	SOUTHWIC	Order (Petitioner's motion to correct illegal sentence pursuant to Rule 35(a) is denied)	Joel E. Tingey
1/27/2014	NOTC	WHEATLEY	Notice of Appeal	Joel E. Tingey
	MOTN	WHEATLEY	Motion and Affidavit in Support for Appointment of Counsel	Joel E. Tingey
1/28/2014	ORDR	SOUTHWIC	Order Granting Motion For Appointment of Counsel	Joel E. Tingey
1/3/2014	CERTAP	PADILLA	Clerk's Certificate of Appeal	Joel E. Tingey
	APSC	PADILLA	Appealed To The Supreme Court	Joel E. Tingey
1/10/2014		PADILLA	(SC) FILED NOTICE OF APPEAL. CLERK'S RECORD DUE 5-14-14	Joel E. Tingey

KIPP MANWARING  
BONNEVILLE COUNTY PROSECUTING ATTORNEY  
605 N. Capital Avenue  
Idaho Falls, Idaho 83402  
(208) 529-1350 Ext. 1773

2001 NOV -8 AM 11:42  
DISTRICT COURT  
MAGISTRATE DIVISION  
BONNEVILLE COUNTY  
IDAHO

Attorney for Plaintiff

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT  
STATE OF IDAHO, COUNTY OF BONNEVILLE  
MAGISTRATES DIVISION

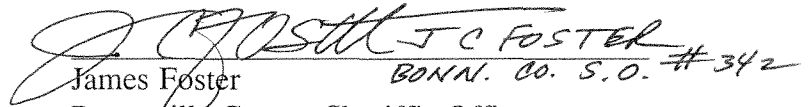
STATE OF IDAHO,	)	
	)	
Plaintiff,	)	Case No. CR-01- 26605
	)	
vs.	)	
	)	
CHRISTOPHER DAVID GRIFFITH,	)	CRIMINAL COMPLAINT
3655 Maiben, Apt. 40	)	
Idaho Falls, Idaho	)	
(DOB: [REDACTED])	)	
(SS: [REDACTED])	)	
	)	
Defendant.	)	
	)	

Personally appeared before me in the County of Bonneville, James Foster, Bonneville County Sheriff's Office, who being first duly sworn, complains and alleges the defendant, Christopher David Griffith, committed the following crime:


MURDER IN THE FIRST DEGREE BY AGGRAVATED BATTERY  
Felony, I.C. §§ 18-4001, 18-4003(d)

The Defendant, Christopher David Griffith, on or about November 6, 2001, in the County of Bonneville, State of Idaho, did unlawfully kill and murder Teagan Jordan Rees, a [REDACTED] under twelve years of age, by perpetrating an aggravated battery upon the person of Teagan Jordan Rees, thereby causing the death of said Teagan Jordan Rees. (death, life imprisonment with a minimum 10 year, \$5,000.00 compensatory fine, \$50,000.00 fine, restitution.)

Dated this 8th day of November, 2001.

  
James Foster *BONN. CO. S.O. #342*  
Bonneville County Sheriff's Office

SUBSCRIBED AND SWORN to before me this 8th day of November, 2001.

  
Magistrate

BOND: \$ *No bond allowed*

1 Christopher D. Griffith, #52664  
2 I.S.C.I., Unit 10  
3 Post Office Box 14  
4 Boise, Idaho 83707

BONNEVILLE COUNTY, IDAHO  
14 FEB -3 AM 10:27

8 IN THE SEVENTH JUDICIAL DISTRICT COURT  
9 IN AND FOR THE COUNTY OF BONNEVILLE  
10 STATE OF IDAHO

11 State of Idaho,  
12 Respondent

NO. CR-01-26605  
Motion To Correct An  
Illegal Sentence Under  
Idaho Criminal Rule 35

13 VS:  
14  
15  
16

17 Christopher D. Griffith,  
Petitioner

18 Comes now, Christopher D. Griffith, the Petitioner herein,  
19 who moves this Court for an Order granting to him a new hearing  
20 for imposition of a sentence that is legal and within the  
21 parameters as set by the Idaho State Legislature for the offense  
22 for which the Petitioner stands convicted of.

23 RELEVANT FACTS NOT IN DISPUTE

24 A). The Petitioner stands convicted of the offense of  
25 first degree murder under §18-4004.

Rule 35 Motion-1

1 B). Pursuant to the laws of the State of Idaho, the State  
2 withdrew it's intent to seek the death penalty in this case.

3 C). Pursuant to the laws of the State of Idaho, the  
4 Petitioner proceeded to a Jury Trial.

5 D). Pursuant to the laws of the State of Idaho, §18-4004,  
6 the Jury did not find any aggravating circumstances.

7 E). Pursuant to the Forty-Eighth Legislature, in the  
8 second Regular Session of 1986, and under House Bill Number 524,  
9 which implemented the Unified Sentencing Act, and Amended the  
10 Idaho Code, §18-4004, (Under which the Petitioner stands  
11 convicted), the Idaho Legislature clearly ordered that the crime  
12 of Murder in the First Degree is required to have a MANDATORY  
13 MINIMUM term of Ten, (10) years.

14 These are the facts of this case that are not in dispute,  
15 and therefore are applicable to this case for this Court's true  
16 and accurate consideration.

#### 17 ARGUMENT OF LAW

18 This is a Motion under Idaho Criminal Court Rule 35 to  
19 correct an illegal sentence.

20 The Petitioner is alleging that this Court imposed a prison  
21 sentence upon him that is not authorized under the laws of the  
22 State of Idaho, and that such illegality is clear on the face of  
23 the record.

#### 24 THE SENTENCE IMPOSED

25 This Court imposed a sentence of indeterminate life, with a

1 determinate or "fixed" term of 22 years, for the crime of Murder  
2 in the First Degree.

3 The Petitioner is not attacking the indeterminate portion  
4 of the sentence, as that part is clearly provided for within the  
5 laws of the State of Idaho for the crime for which the Petitioner  
6 stands convicted.

7 However, the Petitioner is asserting that the Court lacked  
8 Subject Matter Jurisdiction to impose a determinate or "Fixed"  
9 term of 22 years upon the Petitioner because that 22 year term  
10 is not provided for within Statute, and does in fact violate the  
11 legislative meaning and intent of the Unified Sentencing Act.

12 Because the crime for which the Petitioner stands convicted  
13 of was alleged to have been committed in the year of 2001, the  
14 Unified Sentencing Act is applicable to this case.

15 The Unified Sentencing Act is codified in the Idaho Code as  
16 §19-2513.

17 The Unified Sentencing Act, §19-2513, states as follows:

18 "...if the offense carries a mandatory minimum penalty  
19 as provided by Statute, the Court shall specify a  
20 minimum period of confinement consistent with such  
21 statute.".... (Second Paragraph of §19-2513)

22 This above language is taken directly from the Second  
23 Paragraph of the Unified Sentencing Act.

24 The above paragraph contains within it the word SHALL, which  
25 is a commanding word or term. It directs that a Court has no type  
of discretion in what the Court shall do. It is in other words  
mandatory that a Court shall impose a minimum period of

1 incarceration that is "consistent" with a mandatory minimum term  
2 provided for by Statute. It leaves the Court only the discretion  
3 to adjust the indeterminate portion of the sentence for those  
4 crimes which have a mandatory minimum term prescribed for within  
5 the Statute itself.

6 Not all crimes in the State of Idaho have a mandatory  
7 minimum term provided for within the Statute. For instance, the  
8 crime of Aggravated Battery carries a penalty of Fifteen, (15),  
9 years. There is no mention of a Mandatory Minimum penalty in the  
10 Statute of Aggravated Battery, and this allows the Court to  
11 impose a Determinate, or "fixed" period of time in any amount  
12 up to and could include a Fifteen, (15), year fixed term.

13 However, in the case before this Court the crime of Murder  
14 in the First Degree does in fact carry within the Statute a  
15 Mandatory Minimum term. That is a period of Ten, (10), years.

16 This is conclusively proven to this Court by the Idaho  
17 Forty-Eighth Legislature, in the Second Regular Session of 1986,  
18 when the Legislature implemented House Bill 524, and the  
19 Legislature Amended §18-4004, (Homicide Statute), and passed the  
20 Unified Sentencing Act, the Legislature Ordered as follows:

21 "....An Act relating to criminal sentencing; Providing  
22 a short title; Amending section §18-4004, Idaho Code,  
to require a MANDATORY MINIMUM SENTENCE of Ten years  
be served if a sentence for life imprisonment is  
imposed and to deny....." (Emphasis added to Words).

23 A copy of the above cited amendments and House Bill 524 is  
24 attached as Exhibit A.

25 Exhibit A and the language of the House Bill makes it very



1 clear that §18-4004, does carry within it a mandatory minimum  
2 period of time as provided for by Statute.

3 There should be no dispute as to this fact. It is in the  
4 language of the House Bill itself in the very first paragraph.

5 This is the House Bill that was passed and that was used to  
6 implement the Unified Sentencing Act, and which gave to this  
7 Court the Statutory Authority to impose a "Fixed" term of  
8 confinement. Before this House Bill was passed all sentences  
9 in the State of Idaho were purely indeterminate sentences.

10 Without the passage of the above cited House Bill 524, this  
11 Court would lack any type of authority to impose any type of  
12 determinate or "fixed" term upon the Petitioner.

13 So, at this point in this Motion the Petitioner has proven  
14 two things to this Court that are not in dispute, and for which  
15 the State of Idaho cannot put forward any type of valid argument  
16 because these two items are contained within the Laws of the  
17 State of Idaho.

18 **ITEM ONE:** The crime of Murder in the First Degree has a  
19 **Mandatory Minimum Sentence** provided for in  
20 that Statute;

21 **ITEM TWO:** The Unified Sentencing Act, §19-2513, in the  
22 **Second Paragraph** makes it clear that the Court  
23 **SHALL** impose a minimum sentence that is  
24 consistent with the **Mandatory Minimum** as  
25 Provided for in the Statute.

There simply cannot be any type of dispute as to these  
above facts because these facts are proven to this Court by the  
laws of the State of Idaho.

I believe that all parties to this Motion can agree as to

1 what the term "consistent" means. However, and just in case any  
2 party to this litigation does not agree what the term "consistent"  
3 means, the Merriam-Webster's Collegiate Dictionary, the Eleventh  
4 Edition, States:

5           Con-sis-tent: Coherence; Marked with harmony; Free  
6                           from variation; Showing steady  
7                           conformity; The same as another; Tending  
8                           to be the close to the true value of  
9                           another.

10           This brings this Motion back to the most important issue  
11 as is contained herein. The Petitioner was sentenced to a term  
12 of 22 years "fixed", followed by a life term indeterminate. As  
13 was litigated, the indeterminate term is not in question, only  
14 the 22 years indeterminate term is in question.

15           A 22 year fixed term is not consistent with the 10 year  
16 minimum mandatory term as provided for in the Statute.

17           A 22 year term is more than double the Mandatory Minimum  
18 term as provided for in Statute, and therefore it is clearly not  
19 "consistent" with the second paragraph of the Unified Sentencing  
20 Act whereas it is stated:

21                   "...If the Offense carries a mandatory minimum penalty  
22 as provided by Statute, the Court SHALL specify a  
23 minimum period of confinement consistent with such  
24 statute". (§19-2513, second Paragraph).

25           The Petitioner has shown that the Statute in question,  
§18-4004, (The First Degree Murder Statute), does carry a  
Mandatory Minimum period of confinement within that statute, and  
that because of that Mandatory Minimum period of confinement it  
is the provisions of the second paragraph of §19-2513, that is  
mandatory for this Court to have followed when imposing the

1 sentence in this case.

2 The Petitioner has shown that the provisions of §19-2513,  
3 the second paragraph was not followed by this Court, and by not  
4 following the mandatory language of the statute, the Court has  
5 imposed a fixed term that is not consistent with the mandatory  
6 minimum term as provided for in §18-4004.

7 Instead of following the mandatory language of the second  
8 paragraph of §19-2513, (And imposing a fixed term that is  
9 consistent to the ten, (10), year period provided for in  
10 §18-4004), the Court has imposed a term of 22 years fixed, which  
11 is more than double the ten, (10), year period provided for in  
12 statute. This violates the provisions of §19-2513, the second  
13 paragraph, and has created an illegal sentence, one that the  
14 Court has no authority to impose.

15 "A district Court has no power to impose a sentence in the  
16 absence of specific statutory authority". State V. Nelson, 966  
17 P.2d 133, (1998); State V. Hatfield, 846 P.2d 1025, (1993);  
18 State V. Wilson, 926 P.2d 712, (1996):

19 In the state of Idaho, at the time of the alleged commission  
20 of the instant offense, this Court was granted it's authority  
21 to impose a criminal sentence under the Unified Sentencing Act,  
22 which is codified as §19-2513.

23 Under the unified Sentencing Act, §19-2513, and in the  
24 second paragraph of that act, it is clear that if the Statute  
25 for which a criminal Defendant is being sentenced has a set  
mandatory minimum term in that statute, then the Court SHALL  
impose a determinate sentence that is consistent with that

1 Statute.

2 The Petitioner has provided conclusive proof that he was  
3 convicted of an offense that does carry a mandatory minimum term  
4 within that statute. the statute in question is the first degree  
5 Murder statute, which is codified as §18-4004.

6 The mandatory minimum term provided for by that statute is  
7 a term of ten, (10), years.

8 Because this Court ordered a determinate term of 22 years,  
9 and that is not consistent with the ten, (10) year period as is  
10 provided by Statute, it is an illegal sentence.

11 "Legislative intent must first be determined from the plain  
12 meaning of the words used, and , if unambiguous, direct and  
13 certain, the Statute speaks for itself." Crist V. Segna, 622 P.2d  
14 1028, (1981).

15 In this case, there is no doubt as to the meaning of the  
16 Legislature when the passed the Unified Sentencing Act, and when  
17 the Legislature amended §18-4004, by the passage of §19-2513.

18 A copy of the Legislative House Bill is attached hereto as  
19 Exhibit A.

20 There is no confusion in this case. None what-so-ever. The  
21 Legislature provided that in cases such as the one before this  
22 Court the mandatory minimum term of Ten, (10) years would be  
23 applied, leaving the Court the discretion to enter into a term  
24 of indeterminate time under which a criminal defendant would be  
25 supervised, at the discretion of the State Parole Board. This  
period of time could be as long as life. However, the fixed  
period of time must be order to be consistent to the Ten, (10)

1 year mandatory minimum term provided for by the first degree  
2 homicide statute.

3 To do less would be to ignore the laws and the authority the  
4 State Legislature gave to the Court to impose sentences in the  
5 State of Idaho.

6 "It is well established that a Court must give meaning and  
7 effect to all Statutory provisions. Interpretation of a Statute  
8 should achieve the social purposes for which the Statute was  
9 enacted". Montana Contractors Association V. Department of  
10 Highways, 715 P.2d 1056, (1986); Maney V. State, 842 P.2d 704,  
11 (1992).

12 It is respectfully requested that this Court give meaning  
13 and effect to the second paragraph of the Unified Sentencing Act,  
14 §19-2513.

15 It is respectfully requested that this Court give meaning  
16 and effect to the first degree murder statute. §18-4004.

17 It is respectfully requested that this Court find that when  
18 read together, and in compliance with Exhibit A, that the only  
19 legal sentence that can be imposed in this case is a fixed or a  
20 determinate term of Ten, (10), years, (as is provided for as a  
21 Mandatory Minimum term in §18-4004), and as is consistent with  
22 the second paragraph of §19-2513, followed by an indeterminate  
23 term as this Court finds appropriate in this case.

24 "Where a Defendant is deprived of a Statutory right, and  
25 such a right implicates a liberty interest, (such as a sentence  
of Ten years compared to a sentence of 22 years), such an  
interest may deprive a defendant of Due Process of Law under the

1 Fourteenth Amendment to the United States Constitution, because  
2 the failure of a State to follow it's own laws does violate Due  
3 Process of Law." Please see, Hicks V. Oklahoma, 447 U.S. 343,  
4 65 L.Ed.2d 175, (1979); Fetterly V. Paskett, 997 F.2d 1295,  
5 (1993); Ballard V. Estelle, 937 F.2d 453, (1991); Lambright V.  
6 Stewart, 167 F.3d 477, (1999).

#### 7 CONCLUSION AND RELIEF SOUGHT

8 The Petitioner has shown that the Unified Sentencing Act,  
9 §19-2513, in the second paragraph makes it perfectly clear that  
10 if there is a mandatory minimum period of confinement in the  
11 Statute for which the criminal defendant is being sentenced,  
12 then the Court SHALL order the determinate term to be consistent  
13 with that Mandatory minimum period of confinement.

14 The Petitioner has shown that the crime he stands convicted  
15 of, first degree murder, §18-4004, is one of the crimes that do  
16 have a mandatory minimum period of confinement provided for in  
17 the Statute, and therefore, under the Unified Sentencing Act,  
18 in the second Paragraph of that act, it is upon the Court to  
19 sentence the Petitioner to a determinate term that is consistent  
20 to the Mandatory Minimum term provided for by Statute.

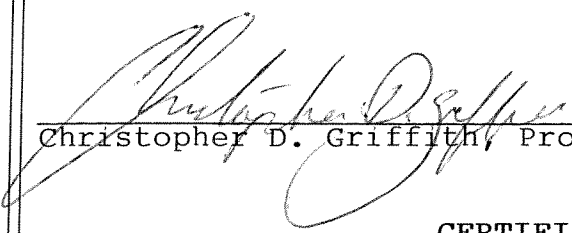
21 In this case the court imposed a determinate term of 22  
22 years; this is not consistent to the mandatory minimum term of  
23 10 years, and the court exceeded its authority when it imposed  
24 such a term.

25 Therefore, it is respectfully requested that this Court,  
follow the statutory scheme of the state of Idaho, and enter an

1 which allows the Petitioner to be re-sentenced to a fixed Ten,  
2 (10) year term, (which is consistent with the Statues in  
3 question), §19-2513, and 18-4004, and allows for the Petitioner  
4 to be legally sentenced within the parameters of this Courts  
5 Jurisdictional Authority as provided for by Statute.

6 DECLARATION OF PETITIONER

7 Comes now, Christopher D. Griffith, the Petitioner herein,  
8 who does declare, under the United States Code, Title 28, Section  
9 1746, that the enclosed document is true and correct to the best  
10 of his belief.

11   
Christopher D. Griffith, Pro-Se

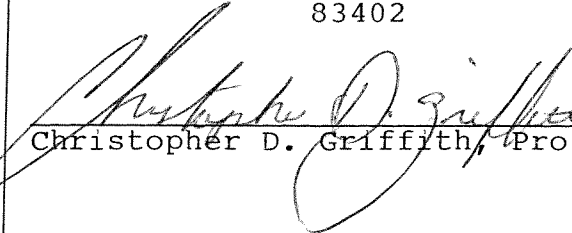
01-30-14  
Dated

13 CERTIFICATE OF SERVICE

14 Comes now, Christopher D. Griffith, the Petitioner herein,  
15 who does Certify that he has served a true and correct copy of  
16 the enclosed document upon the parties entitled to such service  
17 by depositing a true and correct copy of the said same in the  
18 United States Mail, first class postage pre-paid and addressed  
19 as follows:

18 Clerk of the Court  
19 Bonneville County Courthouse  
20 605 North Capital Avenue  
21 Idaho Falls, Idaho  
22 83402

Office of the Prosecutor  
Bonneville County Courthouse  
605 North Capital Avenue  
Idaho Falls, Idaho  
83402

21   
22 Christopher D. Griffith, Pro-Se

01-30-14  
Dated

EXHIBIT  
A



## IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 524

BY JUDICIARY, RULES AND ADMINISTRATION COMMITTEE

## AN ACT

RELATING TO CRIMINAL SENTENCING; PROVIDING A SHORT TITLE; AMENDING SECTION 18-4004, IDAHO CODE, TO REQUIRE A MANDATORY MINIMUM SENTENCE OF TEN YEARS BE SERVED IF A SENTENCE FOR LIFE IMPRISONMENT IS IMPOSED AND TO DENY ELIGIBILITY FOR PAROLE OR DISCHARGE OR OTHER REDUCTION OF SENTENCE DURING THE MINIMUM TERM; AMENDING SECTION 19-2513, IDAHO CODE, TO AUTHORIZE A COURT TO IMPOSE A UNIFIED SENTENCE CONTAINING A MINIMUM SENTENCE FOLLOWED, IN THE DISCRETION OF THE COURT, BY AN INDETERMINATE SENTENCE, TO DENY ELIGIBILITY FOR PAROLE OR DISCHARGE OR OTHER REDUCTION OF SENTENCE, EXCEPT FOR MERITORIOUS SERVICE, DURING THE MINIMUM TERM, TO REQUIRE UNIFIED SENTENCES BE CONSISTENT WITH STATUTORY MANDATORY MINIMUM SENTENCES IF APPLICABLE, TO REQUIRE THE COURT TO IMPOSE A MINIMUM TERM PURSUANT TO A SENTENCE ENHANCEMENT STATUTE IF REQUIRED BY STATUTE, IF APPLICABLE, TO REQUIRE ALL MINIMUM TERMS BE SERVED BEFORE INDETERMINATE TERMS COMMENCE AND TO PROVIDE AN EFFECTIVE DATE; REPEALING SECTION 19-2513A, IDAHO CODE; AND AMENDING SECTION 20-223, IDAHO CODE, TO REMOVE MINIMUM ELIGIBILITY REQUIREMENTS FOR PAROLE AND TO ALLOW PAROLE ONLY WHEN THE COMMISSION OF PARDONS AND PAROLE REASONABLY BELIEVES THAT THE PRISONER DOES NOT CONSTITUTE A THREAT TO THE SAFETY OF SOCIETY; AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. This act shall be known as the "Unified Sentencing Act of 1986."

SECTION 2. That Section 18-4004, Idaho Code, be, and the same is hereby amended to read as follows:

18-4004. PUNISHMENT FOR MURDER. Subject to the provisions of 19-2515, Idaho Code, every person guilty of murder of the first degree shall be punished by death or by imprisonment for life, provided that whenever the court shall impose a sentence of life imprisonment, the court shall set forth in its judgment and sentence a minimum period of confinement of not less than ten (10) years during which period of confinement the offender shall not be eligible for parole or discharge or credit or reduction of sentence for good conduct, except for meritorious service. Every person guilty of murder of the second degree is punishable by imprisonment not less than ten (10) years and the imprisonment may extend to life.

SECTION 3. That Section 19-2513, Idaho Code, be, and the same is hereby amended to read as follows:

19-2513. INDETERMINATE UNIFIED SENTENCE. ~~The minimum period of imprisonment in the penitentiary heretofore provided by law for the punishment of felonies, and each such minimum period of imprisonment for felonies, hereby is abolished.~~ Whenever any person is convicted of having committed a felony, the court shall, unless it shall commute the sentence, suspend or withhold judg-

ment and sentence or grant probation, as provided by chapter 26 of title 19, Idaho Code, or unless it shall impose the death sentence as provided by law, sentence such offender to the custody of the state board of correction ~~for an indeterminate period of time; but stating and fixing in such judgment and sentence a maximum term which term shall be for a period of not less than two (2) years nor exceeding that provided by law therefor; and judgment and sentence shall be given accordingly; and such sentence shall be known as an indeterminate sentence; provided, however, that the enactment of this act shall not affect the indictment, information, prosecution, trial, verdict, judgment, or punishment of any felonies heretofore committed; but all laws now and hitherto in effect relating thereto are continued in full force and effect as to such crimes heretofore committed.~~ The court shall specify a minimum period of confinement and may specify a subsequent indeterminate period of custody. The court shall set forth in its judgment and sentence the minimum period of confinement and the subsequent indeterminate period, if any, provided, that the aggregate sentence shall not exceed the maximum provided by law. During a minimum term of confinement, the offender shall not be eligible for parole or discharge or credit or reduction of sentence for good conduct except for meritorious service. The offender may be considered for parole or discharge at any time during the indeterminate period of the sentence.

If the offense carries a mandatory minimum penalty as provided by statute, the court shall specify a minimum period of confinement consistent with such statute. If the offense is subject to an enhanced penalty as provided by statute, or if consecutive sentences are imposed for multiple offenses, the court shall, if required by statute, direct that the enhancement or each consecutive sentence contain a minimum period of confinement; in such event, all minimum terms of confinement shall be served before any indeterminate periods commence to run.

Enactment of this amended section shall not affect the prosecution, adjudication or punishment of any felony committed before the effective date of enactment.

SECTION 4. That Section 19-2513A, Idaho Code, be, and the same is hereby repealed.

SECTION 5. That Section 20-223, Idaho Code, be, and the same is hereby amended to read as follows:

20-223. PAROLE, RULES AND REGULATIONS GOVERNING -- RESTRICTIONS -- PSYCHIATRIC OR PSYCHOLOGICAL EXAMINATION. (a) Subject to section 19-2513, Idaho Code, the commission shall have the power to establish rules, regulations, policies or procedures in compliance with chapter 52, title 67, Idaho Code, under which any prisoner, excepting any under sentence of death, may be allowed to go upon parole but to remain while on parole in the legal custody and under the control of the board and subject to be taken back into confinement at the direction of the commission; provided, however, that no person serving a life sentence or serving a term of thirty (30) or more years shall be eligible for release on parole until he has served at least ten (10) years and no person serving a lesser sentence for any of the following crimes; homicide in any degree; treason; rape by force or threat of bodily harm; incest; crime against nature; committing a lewd act upon a child; robbery of any kind; kidnapping; burglary when armed with a dangerous weapon; or with an attempt or assault with intent to commit any of said crimes; or as an habitual offender; shall be eligible for release on parole until said person has served a period

1 of-five-(5)-years-or-one-third-(1/3)-of-the-sentence,-whichever-is-the--least-  
 2 The--provisions--of--this-section-shall-affect-only-those-persons-who-are-sen-  
 3 tenced-on-or-after-the-first-day-of-July,-1980,-and-are-not-intended-to-repeal  
 4 or-amend-sections-19-2513A,-19-2520-or-19-2520A,-Idaho-Code.

5 (b) No person serving a sentence for rape, incest, committing a lewd act  
 6 upon a child, crime against nature, or with an intent or an assault with  
 7 intent to commit any of the said crimes or whose history and conduct indicate  
 8 to the commission that he is a sexually dangerous person, shall be released on  
 9 parole except upon the examination and evaluation of one or more psychiatrists  
 10 or psychologists to be selected by the commission and such evaluation shall be  
 11 duly considered by the commission in making its parole determination. The  
 12 commission may, in its discretion, likewise require a similar examination and  
 13 evaluation for persons serving sentences for crimes other than those above  
 14 enumerated. No psychiatrist or psychologist making such evaluation shall be  
 15 held financially responsible to any person for denial of parole by the commis-  
 16 sion or for the results of the future acts of such person if he be granted  
 17 parole.

18 (c) Before considering the parole of any prisoner, the commission shall  
 19 afford the prisoner the opportunity to be interviewed. A parole shall be  
 20 ordered only for the best interests of society when the commission reasonably  
 21 believes that the prisoner no longer poses a threat to the safety of society,  
 22 not as a reward of clemency and it shall not be considered to be a reduction  
 23 of sentence or a pardon. A prisoner shall be placed on parole only when  
 24 arrangements have been made for his employment or maintenance and care, and  
 25 when the commission believes the prisoner is able and willing to fulfill the  
 26 obligations of a law-abiding citizen. The commission may also by its rules,  
 27 regulations, policies or procedures fix the times and conditions under which  
 28 any application denied may be reconsidered.

29 (d) In making any parole or commutation decision with respect to a pris-  
 30 oner, the commission shall consider the compliance of the prisoner with any  
 31 order of restitution which may have been entered according to section 19-5304,  
 32 Idaho Code. The commission may make compliance with such an order of restitu-  
 33 tion a condition of parole.

34 SECTION 6. This act shall be in full force and effect on and after Febru-  
 35 ary 1, 1987, and the amendments in this act shall apply only to those persons  
 36 who shall commit an offense on or after February 1, 1987, and are not intended  
 37 to repeal or amend those provisions of the Code which apply to persons commit-  
 38 ting an offense prior to February 1, 1987, which provisions shall continue to  
 39 apply, and further that amendments in this act are not intended to repeal or  
 40 amend sections 19-2520, 19-2520A, 19-2520B, 19-2520C or 19-2520D, Idaho Code.

# From: 1986 Data, Final Edition

H520..... By Local Government  
FEES - CLERK OF DISTRICT COURT - Amends existing law to correct a codifier's typographical error and to change a reference from certifying to copying a page relating to the fee for certification of a file or record.

1/31 House intro - 1st rdg - to printing  
2/3 Rpt prt - to Loc Gov  
2/7 Rpt out - rec d/p - to 2nd rdg  
2/10 2nd rdg - to 3rd rdg  
2/11 3rd rdg - PASSED - 77-1-6  
NAYS -- Johnson (6).  
Absent and excused -- Boyd, Brocksome, Keeton, Loveland, Strasser, Sutton.  
Title apvd - hld for reconsideration  
2/12 No reconsideration - to Senate  
2/13 Senate intro - 1st rdg - to Jud  
3/10 Rpt out - rec d/p - to 2nd rdg  
3/11 2nd rdg - to 3rd rdg  
3/15 3rd rdg - PASSED - 38-0-4  
NAYS -- none.  
Absent and excused -- Dobler, McLaughlin, McRoberts, Noh.  
Title apvd - to House  
3/17 To enrol  
3/18 Rpt enrol - Sp signed  
3/19 Pres signed - to Governor  
3/22 Governor signed  
Session Law Chapter 103  
Effective: 7-1-86

H521..... By Revenue & Taxation  
GASOHOL - Amends existing law to continue the reduced tax on gasohol.

2/3 House intro - 1st rdg - to printing  
2/4 Rpt prt - to Rev/Tax  
2/10 Rpt out - rec d/p - to 2nd rdg  
2/11 2nd rdg - to 3rd rdg  
2/13 3rd rdg - PASSED - 79-4-1  
NAYS -- Allan, Givens, Herndon, McCann.  
Absent and excused -- Martens.  
Title apvd - to Senate  
2/14 Senate intro - 1st rdg - to Transp  
3/14 Rpt out - rec d/p - to 2nd rdg  
3/15 2nd rdg - to 3rd rdg  
3/25 3rd rdg - PASSED - 41-0-1  
NAYS -- none.  
Absent and excused -- Staker.  
Title apvd - to House  
3/26 To enrol - rpt enrol - Sp signed  
3/27 Pres signed  
3/28 To Governor  
4/4 Governor signed  
Session Law Chapter 344  
Effective: 4-30-86

H522..... By Revenue & Taxation  
INCOME TAX, STATE - Amends existing law to allow a deduction for state income tax purposes of disability income payments.

2/3 House intro - 1st rdg - to printing  
2/4 Rpt prt - to Rev/Tax  
2/27 Rpt out - rec d/p - to 2nd rdg  
2/28 2nd rdg - to 3rd rdg  
3/3 3rd rdg - PASSED - 82-0-2  
NAYS -- none.  
Absent and excused -- Edwards, Schaefer.  
Title apvd - to Senate  
3/4 Senate intro - 1st rdg - to Loc Gov

H523..... By Education  
SCHOOLS - Adds to existing law to prohibit teaching that

homosexuality is a normal or acceptable form of behavior by any school employee and to provide penalties.

2/3 House intro - 1st rdg - to printing  
2/4 Rpt prt - to Educ  
2/12 Rpt out - rec d/p - to 2nd rdg  
2/13 2nd rdg - to 3rd rdg  
2/17 3rd rdg - PASSED - 54-26-4  
NAYS -- Adams, Black, Braun, Crozier, Fry, Givens, Gurnsey, Haagenson, Hansen, Harris, Hay, Herndon, Hooper, Horvath, Johnson (27), Johnson (6), Judd, Kellogg, Loveland, McCann, Reid, Reynolds, Scates, Stoicheff, Sutton, Tucker.  
Absent and excused -- Keeton, McDermott, Montgomery, Robbins.  
Title apvd - to Senate  
2/18 Senate intro - 1st rdg - to Educ

H524..... By Judiciary, Rules & Administration  
CRIME AND CRIMINAL PROCEDURES - Amends, repeals and adds to existing law to allow the courts to impose a unified sentence and to eliminate minimum parole requirements for felony or life imprisonment sentences.

2/3 House intro - 1st rdg - to printing  
2/4 Rpt prt - to Jud  
2/26 Rpt out - rec d/p - to 2nd rdg  
2/27 2nd rdg - to 3rd rdg  
2/28 3rd rdg - PASSED - 76-5-3  
NAYS -- Johnson (6), Judd, Keeton, McCann, McDermott.  
Absent and excused -- Black, Parks, Simpson.  
Title apvd - to Senate  
3/3 Senate intro - 1st rdg - to Jud  
3/13 Rpt out - rec d/p - to 2nd rdg  
3/14 2nd rdg - to 3rd rdg  
3/25 3rd rdg - PASSED - 42-0-0  
NAYS -- none.  
Absent and excused -- none.  
Title apvd - to House  
3/26 To enrol - rpt enrol - Sp signed  
3/27 Pres signed  
3/28 To Governor  
4/3 Governor signed  
Session Law Chapter 232  
Effective: 2-1-87

H525..... By Judiciary, Rules & Administration  
STATE BAR ASSOCIATION - Amends existing law to exempt an employee of the State Bar from state classified service.

2/3 House intro - 1st rdg - to printing  
2/4 Rpt prt - to St Aff  
3/5 Rpt out - rec d/p - to 2nd rdg  
3/6 2nd rdg - to 3rd rdg  
3/7 3rd rdg - PASSED - 76-1-7  
NAYS -- Infanger.  
Absent and excused -- Allan, EchoHawk, Forrey, Keeton, McCann, Robbins, Stanger.  
Title apvd - to Senate  
3/10 Senate intro - 1st rdg - to Jud  
3/26 Rpt out - rec d/p - 2nd rdg - to 3rd rdg  
3/27 3rd rdg - PASSED - 34-3-5  
NAYS -- Beitelspacher, McRoberts, Tominaga.  
Absent and excused -- Calabretta, Carlson, Lannen, Peavey, Watkins.  
Title apvd - to House  
3/28 To enrol - rpt enrol - Sp signed  
3/31 Pres signed  
4/1 To Governor  
4/3 Governor signed  
Session Law Chapter 204  
Effective: 7-1-86

2014 FEB 13 AM 10:21

**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE**

STATE OF IDAHO,

Plaintiff,

v.

CHRISTOPHER D. GRIFFITH,

Defendant.

Case No. CR-2001-26605

ORDER

This matter is before the Court on Defendant's motion for correction of an illegal sentence. The Court finds that a hearing on the motion is unnecessary and rules as follows.

**I. FACTS**

In 2001, Petitioner, Christopher D. Griffith, was found guilty of first degree murder pursuant to I.C. § 18-4004. The sentencing court sentenced Griffith to 22 years determinate and life indeterminate. Griffith has spent almost thirteen years in the state penitentiary. Griffith now seeks relief arguing that the sentence of 22 years was illegal.

**II. STANDARD OF REVIEW**

In *State v. Clements*, 148 Idaho 82, 84, 218 P.3d 1143, 1145 (2009), the Idaho Supreme Court maintained the narrow scope of a Rule 35 motion. It held that a trial court cannot examine the underlying facts to determine if the sentence is illegal under Rule 35. See *Clements*, 148 Idaho 82,

218 P.3d 1143. The Court defined an “illegal sentence” as one that is illegal from the face of the record, does not involve a significant question of fact, and does not require an evidentiary hearing. *Id.* at 86. Rule 35 is “interpreted narrowly because, as an illegal sentence may be corrected at any time, the rule must necessarily be limited to uphold the finality of judgments.” *State v. Wolfe*, 38896, 2013 WL 6014054 (Idaho Ct. App. Nov. 14, 2013) citing *State v. Clements*, 148 Idaho 82, 84, 218 P.3d 1143, 1145 (2009). In *Clements*, the Supreme Court stated:

Rule 35 is not a vehicle designed to reexamine the facts underlying the case to determine whether a sentence is illegal; rather, the rule only applies to a narrow category of cases in which the sentence imposes a penalty that is simply not authorized by law or where new evidence tends to show that the original sentence was excessive.

*Clements*, 148 Idaho at 86, 218 P.3d at 1147 (citing *State v. Arthur*, 145 Idaho 219, 223, 177 P.3d 966, 970 (2008)).

### III. ANALYSIS

Petitioner, Christopher D. Griffith now moves the Court to correct an illegal sentence pursuant to Rule 35(a). A motion to correct a sentence that was imposed in a legal manner or motion to reduce a sentence pursuant to Rule 35(b) must be file within “120 days after the filling of judgment of conviction or within 120 days after the court releases retained jurisdiction” I.C.R. 35(b) (2011) and (2004) (amended 2009 and 2011). “In contrast, a motion to correct an *illegal* sentence may be entertained at any time.” *State v. Wolfe*, 38896, 2013 WL 6014054 (Idaho Ct. App. Nov. 14, 2013); I.C.R. 35(a) (2011) and (2004) (amended 2009 and 2011).

Griffith argues that the sentencing court lacked the statutory authority to impose a determinate sentence of 22 years. Griffith does not argue that the indeterminate portion of his life sentence was illegal as that is clearly provided within the statute. However, Griffith argues that because Idaho law required a mandatory minimum penalty of 10 years, the fixed portion of his

sentence had to be the mandatory minimum, i.e., 10 years.

Idaho Code section 19-2513 states, "...[i]f the offense carries a mandatory minimum penalty as provided by statute, the court shall specify a minimum period of confinement consistent with such statute." I.C. § 19-2513. Griffith is correct when he argues that a mandatory minimum penalty must be consistent with the requirements of the offense statute; however, he misconstrues the requirements of the murder statute.

Idaho Code section 18-4004, Punishment for Murder, in relevant part, states

...If a jury, or the court if a jury is waived, does not find a statutory aggravating circumstance beyond a reasonable doubt or if the death penalty is not sought, the court shall impose a life sentence **with a minimum period of confinement of not less than ten (10) years** during which period of confinement the offender shall not be eligible for parole or discharge or credit or reduction of sentence for good conduct, except for meritorious service...

I.C. § 18-4004 (emphasis added).

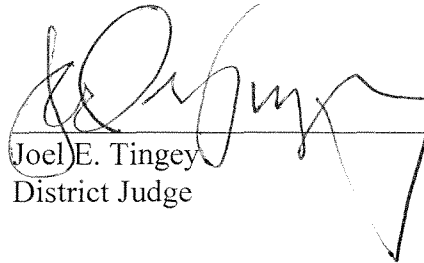
According to the statute, the sentencing court has the statutory authority to impose, on a defendant found guilty of murder, a determinate sentence up to life in prison. The statute only restricts the court from imposing a determinate sentence of less than ten years. In other words, the statute sets a base line for the fixed minimum giving the court discretion to set a fixed portion of a sentence at the minimum of 10 years up to life. The plain language of the statute requires that the mandatory minimum penalty of imprisonment must not be less than 10 years. The statute certainly does not mandate that the fixed portion of the sentence be set at 10 years. Griffith's determinate sentence of 22 years is consistent with the Idaho Code section 19-2513 and Idaho Code section 18-4004.

#### IV. CONCLUSION

For the foregoing reasons, Petitioner's motion to correct an illegal sentence pursuant to Rule 35(a) is denied.

**IT IS SO ORDERED.**

Dated this 13 day of February, 2014.

  
Joel E. Tingey  
District Judge

**CERTIFICATE OF SERVICE**


I hereby certify that on this 13 day of February, 2014, the foregoing document was entered and a true and correct copy was served upon the parties listed below by mailing, with the correct postage thereon, or by causing the same to be delivered to their courthouse boxes.

Christopher D. Griffith  
I.S.C.A., Unit 10  
Post Office Box 14  
Boise, Idaho 83707

Office of the Prosecutor  
605 North Capital Avenue  
Idaho Falls, ID 83402

Ronald Longmore  
Clerk of the District Court  
Bonneville County, Idaho

by

  
Deputy Clerk



BONNEVILLE COUNTY, IDAHO

Inmate name christopher GALT 2014 FEB 27 AM 10:37  
IDOC No. 52664  
Address Post Office Box 14  
Boise Idaho  
83707

Defendant-Appellant

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF Bonneville

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

christopher GALT

Defendant-Appellant.

Case No. CR-2001-26605

**MOTION AND AFFIDAVIT IN  
SUPPORT FOR  
APPOINTMENT OF  
COUNSEL**

COMES NOW, christopher GALT, Defendant-Appellant in the  
above entitled matter and moves this Honorable Court to grant Defendant-Appellant's Motion  
for Appointment of Counsel for the reasons more fully set forth herein and in the Affidavit in  
Support of Motion for Appointment of Counsel.

1. Defendant-Appellant is currently incarcerated within the Idaho Department of  
Corrections under the direct care, custody and control of Warden yordy,  
of the Idaho STATE CORRECTIONAL INSTITUTION.

2. The issues to be presented in this case may become to complex for the Defendant-  
Appellant to properly pursue. Defendant-Appellant lacks the knowledge and skill needed to  
represent him/herself.

MOTION AND AFFIDAVIT IN SUPPORT FOR APPOINTMENT OF COUNSEL - 1

Revised: 10/17/05

Further your affiant sayeth naught.

WHEREFORE, Defendant-Appellant respectfully prays that this Honorable Court issue it's Order granting Defendant-Appellant's Motion for Appointment of Counsel to represent his/her interest, or in the alternative grant any such relief to which it may appear the Defendant-Appellant is entitled to.

DATED This 23 day of February, 2014.

\_\_\_\_\_  
Defendant-Appellant

~~SUBSCRIBED AND SWORN AND AFFIRMED to before me this~~ day  
of \_\_\_\_\_, 20\_\_\_\_

(SEAL) ·

~~Notary Public for Idaho~~  
Commission expires: \_\_\_\_\_

no  
notary  
AVAILABLE  
Witnessed BY:

Keith A. Blount

Irwin R. Adams

BONNEVILLE COUNTY, IDAHO  
Inmate Name Christopher Griffith  
IDOC No. 52664  
Address Post Office Box 44 2014 FEB 27 AM 10:34  
Boise, Idaho 83707

Appellant

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR BONNEVILLE COUNTY

STATE OF IDAHO,

Plaintiff-Respondent,

v.

Christopher Griffith,

Defendant-Appellant.

CASE NO. CR-2001-26605

S.C. DOCKET NO. \_\_\_\_\_

NOTICE OF APPEAL  
Rule 35

TO: THE ABOVE-NAMED RESPONDENT, STATE OF IDAHO, AND THE PARTY'S ATTORNEYS, STATE OF IDAHO, PROSECUTING ATTORNEY AND THE CLERK OF THE ABOVE-ENTITLED COURT:

NOTICE IS HEREBY GIVEN THAT:

1. The above-named appellant appeals against the above-named respondent to the Idaho Supreme Court from the entered in the above-entitled action on the 13<sup>th</sup> OF FEBRUARY (DATE), the Honorable Joel E. Tingey (NAME OF JUDGE) presiding.
2. That the party has a right to appeal to the Idaho Supreme Court, and the judgments or orders described in paragraph 1 above are appealable orders under and pursuant to Idaho Appellate Rule (I.A.R) 11(c)(1-10).
3. A preliminary statement of the issues on appeal, which the appellant then intends to assert in the appeal, provided any such list of issues on appeal shall not prevent the appellant from asserting other issues on appeal, is/are:

(a) Did the district court err in imposing an excessive sentence?

(b) Did the district court err in denying the appellant's Idaho Criminal Rule 35 motion to reduce his sentence?

4. There is a portion of the record that is sealed. That portion of the record that is sealed is the Pre-Sentence Investigation Report (PSI).

5. The appellant requests the preparation of the entire reporter's standard transcript as defined in I.A.R. 25(a). The appellant also requests the preparation of the following portions of the reporter's transcript:

(a) Sentencing Hearing held on N/A (DATE OF HEARING); and

(b) Rule 35 Hearing held on NOVE HEID (DATE OF HEARING).

6. The appellant requests the standard clerk's record pursuant to I.A.R. 28(b)(2). The appellant requests the following documents to be included in the clerk's record, in addition to those automatically included under I.A.R. 28(b)(2):

(a) PSI, including any exhibits, attachments or addendums thereto; and

(b) Any exhibits, including but not limited to letters or victim impact statements and other addendums to the PSI or other items offered at sentencing or the Rule 35 hearing.

7. I certify:

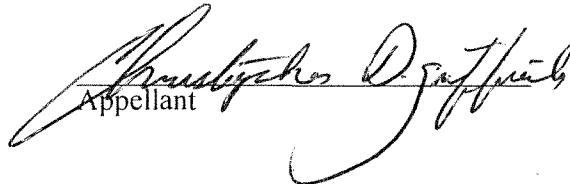
(a) That a copy of this Notice of Appeal has been served on the reporter;

(b) That the appellant is exempt from paying the estimated fee for the preparation of the record because the appellant is indigent. (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 24(e));

(c) That there is no appellate filing fee since this is an appeal in a criminal case (Idaho Code §§ 31-3220, 31-3220A, I.A.R. 23(a)(8));

- (d) That arrangements have been made with Bonneville  
(NAME OF COUNTY) County who will be responsible for paying for the  
reporter's transcript, as the client is indigent, Idaho Code §§ 31-3220, 31-3220A,  
I.A.R. 24(e);
- (e) That service has been made upon all parties required to be served pursuant to  
I.A.R. 20.

DATED this 23 day of February, 2014.

  
Appellant

BONNEVILLE COUNTY, IDAHO

2014 FEB 28 AM 11:16

Inmate name CHRISTOPHER GELBERT  
IDOC No. 32664  
Address POST OFFICE BOX 14  
BONNEVILLE, IDAHO  
83797

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT  
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

STATE OF IDAHO,

Plaintiff-Respondent,

vs.

CHRISTOPHER GELBERT,

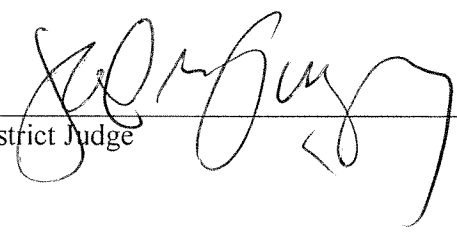
Defendant-Appellant.

Case No. CR-2001-26605

**ORDER GRANTING  
MOTION FOR  
APPOINTMENT  
OF COUNSEL**

IT IS HEARBY ORDERED that the Defendant-Appellant's Motion for Appointment of Counsel is granted and STATE PUBLIC DEFENDER (attorney's name), a duly licensed attorney in the State of Idaho, is hereby appointed to represent said defendant in all proceedings involving the Idaho Criminal Rule 35 motion.

DATED this 28 day of FEB, 2014.

  
District Judge

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

STATE OF IDAHO,	)	
	)	
Plaintiff/Respondent,	)	Case No. CR-2001-26605
	)	
vs.	)	Docket No.
	)	
CHRISTOPHER GRIFFITH,	)	<b>CLERK'S CERTIFICATE</b>
	)	<b>OF APPEAL</b>
Defendant/Appellant.	)	
_____	)	

Appeal from: Seventh Judicial District, Bonneville County

Honorable Joel E. Tingey, District Judge, presiding.

Case number from Court: CR-2001-26605

Order or Judgment appealed from: The Court's Order entered February 13, 2014

Attorney for Appellant: State Appellate Public Defender's Office

Attorney for Respondent: Attorney General's Office

Appealed by: Christopher Griffith

Appealed against: State of Idaho

Notice of Appeal Filed: February 28, 2014


Appellate Fee Paid: No

Was District Court Reporter's Transcript requested? No

If so, name of reporter:

Dated: March 3, 2014

RONALD LONGMORE  
Clerk of the District Court

By:   
Deputy Clerk

# In the Supreme Court of the State of Idaho

STATE OF IDAHO,	)	
	)	
Plaintiff-Respondent,	)	ORDER TAKING JUDICIAL NOTICE
	)	
v.	)	Supreme Court Docket No. 41923-2014
	)	Bonneville County No. 2001-26605
CHRISTOPHER D. GRIFFITH,	)	
	)	
Defendant-Appellant.	)	

The Notice of Appeal was filed in the District Court March 4, 2014. A Reporter's Transcript and Clerk's Record was filed January 26, 2014 in related appeal No. 29631, *State v. Griffith*; therefore good cause appearing,

IT HEREBY IS ORDERED that this Court shall take JUDICIAL NOTICE of the Clerk's Record and Transcript filed in prior appeal No. 29631, *State v. Griffith*.

IT FURTHER IS ORDERED that the District Court Clerk shall prepare and file a LIMITED CLERK'S RECORD with this Court, which shall contain the documents requested in the Notice of Appeal, together with a copy of this Order, but shall not duplicate any documents filed in prior appeal No. 29631. The LIMITED CLERK'S RECORD shall be filed with this Court after settlement.

DATED this 29<sup>th</sup> day of April, 2013.

For the Supreme Court

  
Stephen W. Kenyon, Clerk

cc: Counsel of Record  
District Court Clerk



IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

STATE OF IDAHO,	)	
	)	
Plaintiff/Respondent,	)	Case No. CR-2001-26605
	)	
vs.	)	Docket No. 41923
	)	
CHRISTOPHER D GRIFFITH,	)	<b>CLERK'S CERTIFICATION</b>
	)	<b>OF EXHIBITS</b>
Defendant/Appellant.	)	
_____	)	

STATE OF IDAHO            )  
                                  )  
County of Bonneville        )

I, Ronald Longmore, Clerk of the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Bonneville, do hereby certify that the foregoing Exhibits were marked for identification and offered in evidence, admitted, and used and considered by the Court in its determination

No Exhibits Reported

I, certify that the following documents will be submitted as CONFIDENTIAL EXHIBITS to the Record:


- 1) Presentence Report, dated January 27, 2003

I, further certify that the following were not offered for identification or admitted but were reviewed during the course of this action:

- 1) Several Letters from different individuals all stapled together

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the District Court  
this 29 day of April, 2014.

RONALD LONGMORE  
Clerk of the District Court

By   
Deputy Clerk

**IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE**

STATE OF IDAHO,	)	
	)	
Plaintiff/Respondent,	)	Case No. CR-2001-26605
	)	
vs.	)	Docket No. 41923
	)	
CHRISTOPHER D GRIFFITH,	)	<b>CLERK'S CERTIFICATE</b>
	)	
Defendant/Appellant.	)	
_____	)	


STATE OF IDAHO	)
	)
County of Bonneville	)

I, Ronald Longmore, Clerk of the District Court of the Seventh Judicial District of the State of Idaho, in and for the County of Bonneville, do hereby certify that the above and foregoing Record in the above-entitled cause was compiled and bound under my direction and is a true, correct and complete Record of the pleadings and documents as are automatically required under Rule 28 of the Idaho Appellate Rules.

I do further certify that all exhibits, offered or admitted in the above-entitled cause, will be duly lodged with the Clerk of the Supreme Court along with the Court Reporter's Transcript (if requested) and the Clerk's Record as required by Rule 31 of the Idaho Appellate Rules.

IN WITNESS WHEREOF, I have hereunto set my hand affixed the seal of the District Court this 29 day of April, 2014.

RONALD LONGMORE  
Clerk of the District Court

By:   
\_\_\_\_\_  
Deputy Clerk

IN THE DISTRICT COURT OF THE SEVENTH JUDICIAL DISTRICT OF THE  
STATE OF IDAHO, IN AND FOR THE COUNTY OF BONNEVILLE

STATE OF IDAHO,	)	
	)	
Plaintiff/Respondent,	)	Case No. CR-2001-26605
	)	
vs.	)	Docket No. 41923
	)	
CHRISTOPHER D GRIFFITH,	)	<b>CERTIFICATE OF SERVICE</b>
	)	
Defendant/Appellant.	)	
_____	)	


I HEREBY CERTIFY that on the 29 day of April, 2014, I served a copy of the Reporter's Transcript (if requested) and the Clerk's Record in the Appeal to the Supreme Court in the above entitled cause upon the following attorneys:

Sara Thomas  
State Appellate Public Defender  
3050 N. Lake Harbor Lane St. 100  
Boise, ID 83703

Deputy Attorney General  
PO Box 83720  
Boise, ID 83720-0010

by depositing a copy of each thereof in the United States mail, postage prepaid, in an envelope addressed to said attorneys at the foregoing address, which is the last address of said attorneys known to me.

RONALD LONGMORE  
Clerk of the District Court

By:   
Deputy Clerk